

ORDINANCE NO. 90-12

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE
"NUISANCE ABATEMENT ORDINANCE", CREATED PURSUANT TO
SECTION 893.138 FLORIDA STATUTES, ESTABLISHING THE
NUISANCE ABATEMENT BOARD OF PALM BEACH COUNTY TO HEAR
COMPLAINTS AND EVIDENCE REGARDING DRUG-RELATED
NUISANCES ON PREMISES LOCATED IN PALM BEACH COUNTY;
PROVIDING FOR DEFINITIONS; PROVIDING FOR NUISANCE
ABATEMENT BOARD: ORGANIZATION OF SAID BOARD;
PROVIDING FOR OPERATING PROCEDURES; PROVIDING FOR
CONDUCT OF HEARINGS; PROVIDING FOR COUNTYWIDE
JURISDICTION; PROVIDING FOR JUDICIAL REVIEW;
PROVIDING FOR RIGHTS RESERVED; PROVIDING FOR
SEVERABILITY; PROVIDING FOR A REPEALER; PROVIDING FOR
AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has stated that Florida is
facing a crisis of dramatic proportions due to the rapidly increasing
crime rate related to drug and substance abuse;

WHEREAS, the Florida Legislature has enacted the "Crime
Prevention and Control Act," Laws of Florida, Chapter 87-243, authorizing
counties to create administrative boards to abate drug-related nuisances
in their communities and authorizing citizens and county attorneys to
bring suit in the name of the State to enjoin nuisances; and

WHEREAS, the Palm Beach County Board of County Commissioners
are concerned about the proliferation of public nuisances on premises
located in Palm Beach County and wishes to abate said nuisances.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:

SECTION 1. TITLE

This Ordinance shall be known as the "Palm Beach County
Nuisance Abatement Ordinance".

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1 his appointment, and the Board of County Commissioners shall promptly
2 fill such vacancy for the remainder of the term.

3 C) The presence of three or more members shall constitute a
4 quorum. Members shall serve without compensation.

5 SECTION 4. OPERATING PROCEDURES

6 A) Any employee, officer or resident of Palm Beach County may
7 file a complaint and request for prosecution with the County Attorney
8 regarding the existence on premises located in Palm Beach County of a
9 Public Nuisance as defined in Section 2(A) of this Ordinance.

10 B) The County Attorney, when he has received the aforesaid
11 complaint and request for prosecution and has reason to believe that a
12 Public Nuisance as defined in Section 2(A) exists on the premises
13 complained of shall promptly request a hearing before the Nuisance
14 Abatement Board.

15 C) Service. The Nuisance Abatement Board, through its Clerk,
16 shall schedule a hearing, and written notice of said hearing shall be
17 sent to the owner and operator(s) of the premises at their last known
18 addresses at least five (5) days prior to the scheduled hearing.

19 D) The aforesaid notice of hearing shall include:

20 1) A statement of the time, place and nature of the
21 hearing.

22 2) A statement of the legal authority and jurisdiction
23 under which the hearing is to be held.

24 3) A reference to the particular sections of the statutes
25 and ordinances involved.

26 4) A short and plain statement summarizing the incidents
27 complained of.

28 SECTION 5. CONDUCT OF HEARINGS

29 A) The chairman of the Board may call hearings of the Board.
30 Hearings may also be called by written notice signed by a least three (3)
31 members of the Board. The Board, at a hearing, may set a future hearing
32 date. The Board shall attempt to convene no less frequently than once
33 every month but may meet more or less often as the demand necessitates.
34 The Board shall adopt rules for the conduct of its hearings. Minutes
35 shall be kept of all hearings and all hearings shall be open to the

1 public. The County shall provide clerical and administrative personnel
2 as may be reasonably required for the proper performance of the Board's
3 duties.

4 B) The County Attorney shall present cases before the Board.
5 All parties shall have an opportunity to present evidence and argument on
6 all issues involved, to conduct cross-examination and submit rebuttal
7 evidence, and to be represented by counsel. When appropriate, the
8 general public may be given an opportunity to present oral or written
9 communications. The Board may consider any evidence, including evidence
10 of the general reputation of the place or premises. All testimony shall
11 be under oath and shall be recorded. Formal rules of evidence shall not
12 apply, but fundamental due process shall be observed and shall govern the
13 proceedings. Orders of the Board shall be based on competent and
14 substantial evidence, and any finding that a nuisance exists must be
15 based on a "preponderance of the evidence" standard.

16 C) After considering all evidence, the Board may declare the
17 place or premises to be a Public Nuisance as defined in Section 2(A), and
18 may enter an order immediately prohibiting:

- 19 1) The maintaining of the nuisance;
20 2) The operating or maintaining of the place or premises;
21 or
22 3) The conduct, operation, or maintenance of any business
23 or activity on the premises which is conducive to such nuisance.

24 All orders of the Board shall be by motion approved by a
25 majority of those members present and voting, except that at least three
26 (3) members of the Board must be present in order for the action to be
27 official.

28 D) An order entered under subsection (C) shall expire after
29 one year, or at such earlier time as stated in the order. The Board may
30 retain jurisdiction to modify its orders prior to the expiration of said
31 orders.

32 E) The Palm Beach County Sheriff shall assist the Board in
33 carrying out any legally authorized order rendered pursuant to this
34 Ordinance.

1 F) In the event that orders of the Board expire and/or are not
2 complied with, or are for any reason ineffective, the Board may then
3 bring a complaint under Section 60.05 of the Florida Statutes, seeking a
4 permanent injunction against any public nuisance described in Section
5 2(A).

6 SECTION 6. COUNTY-WIDE JURISDICTION

7 Consistent with law and this ordinance, the Palm Beach County
8 Nuisance Abatement Board shall have jurisdiction to enforce this
9 ordinance within municipalities of Palm Beach County, provided a
10 municipality does not have a Nuisance Abatement Ordinance which conflicts
11 with this Ordinance.

12 SECTION 7. JUDICIAL REVIEW

13 Any person aggrieved by any ruling or order of the Nuisance
14 Abatement Board may seek review by certiorari in the Circuit Court of
15 Palm Beach County. A petition for writ of certiorari shall be filed
16 within thirty (30) days of the date of the written order appealed from.
17 Enforcement of the Board's orders shall be suspended until such time as
18 the Palm Beach County Circuit Court either affirms the Board's order or
19 supersedes the order with one rendered by the Court.

20 SECTION 8. RIGHTS PRESERVED

21 This Chapter does not restrict the right of any person to
22 proceed under either Section 60.05 or Section 823.05 of the Florida
23 Statutes, against any public nuisance.

24 SECTION 9. SEVERABILITY

25 If any section, subsection, clause or provision of this
26 Ordinance is held invalid, the remainder shall not be affected by such
27 invalidity.

28 SECTION 10. REPEALER

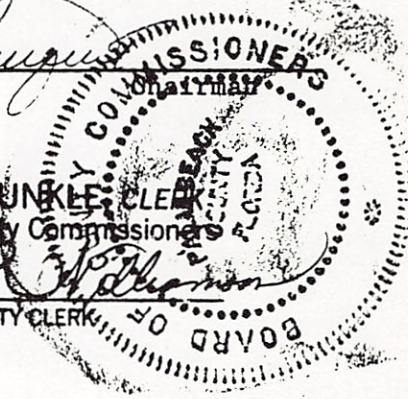
29 All Ordinances or parts of Ordinances in conflict herewith be
30 and the same are hereby repealed.

31 SECTION 11. EFFECTIVE DATE

32 The provisions of this ordinance shall become effective upon
33 receipt of acknowledgement by the Secretary of State.

34 APPROVED AND ADOPTED by the Board of County Commissioners of
35 Palm Beach County, Florida, on the 20th day of March, 1990.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By Carol Dungey  CHAIRMAN
JOHN B. DUNKLE, CLERK
Board of County Commissioners
By James A. Thompson DEPUTY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Van B Code
County Attorney

Acknowledgement by the Department of State of the State of
Florida, on this, the 2nd day of April, 1990.

EFFECTIVE DATE: Acknowledgement from the Department of State
received on the 5th day of April, 1990, at 2:17
P.M., and filed in the Office of the Clerk of the Board of County
Commissioners of Palm Beach County, Florida.

(Nuisance Abatement Ordinance)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, Clerk of the
Board of County Commissioners, certify this to
be a true and correct copy of the original filed in
my office on 3/20/90
DATED at West Palm Beach, FL on 4/90/90
JOHN B. DUNKLE, Clerk
By: James A. Thompson DEPUTY CLERK 